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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,098	09/27/2004	Nicolaas Laurisse Sieling	6001-1005	1275

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EXAMINER

NEWVILLE, TONI E

ART UNIT PAPER NUMBER

3671

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/509,098

Applicant(s)

SIELING, NICOLAAS LAURISSE

Examiner

Toni Newville

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/27/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because of the following informalities:

- Figure 1, first plate 120 and pin 120 have the same reference number.
- Figure 4, reference number 46 should be 44.
- Figure 5, reference number 44 should be 46.
- Figure 7, element 72 should be 76, and element 70 should be 74.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

- Page 8 line 29: "end plate 4" should be "end plate 22".
- Page 8 line 31: "latch member 92" should be "latch member 96".
- Page 9 line 11: "drawstring 118" should be "drawstring 108".
- Page 9 line 26: "pin 8" should be "pin 120".
- Page 11 line 5: "retracted position 62" should be "retracted position 46".
- Pages 1, 4, 7-9 and 11-13 should be resubmitted as they contain photocopying errors that impede readability of the specification.

Appropriate correction is required.

### ***Claim Objections***

3. Claim 8 is objected to because of the following informalities: A claim cannot depend on itself. It appears that claim 8 should depend from claim 7, and will be treated as such in this office action. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Solaja, US 4521980.

Regarding claim 1, Solaja discloses a ground levelling apparatus to be drawn behind a prime mover (column 1 lines 38-39) and comprising an elongate ground engaging knife edge (24) mounted on a carrier (14) joined to a drawbar arrangement (10) that can be connected to the prime mover, the drawbar arrangement capable of being arranged to position the carrier (14) so that the knife edge is level with a bottom portion of the carrier (14) that is parallel to the knife edge (24) and that bears on the ground as the apparatus is drawn over the ground by the prime mover (column 2 lines 26-29).

Regarding claim 2, Solaja further discloses that the carrier (14) is of right circular cylindrical cross section (Fig. 1).

Regarding claim 4, the knife edge (24) is incorporated in a cutting edge (20) that is mounted on the carrier (14).

Regarding claim 5, the bottom portion of the carrier is provided with a wear plate (Fig. 2, bottom of carrier 14) for bearing on the ground.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solaja, US 4521980, in view of Fulton, US 6202328.

Regarding claim 3, Solaja discloses an apparatus as described above in the discussion of claim 1, including a carrier (14) being a pipe of right circular cylindrical cross section. Solaja fails to disclose the carrier (14) being comprised of steel.

Like Solaja, Fulton discloses a ground leveling apparatus (Fig. 21) arranged to be mounted on a prime mover and comprising an elongate ground engaging knife edge (72) mounted on a carrier (62). Unlike Solaja, Fulton discloses the carrier (62) as being comprised of steel (column 12 lines 18-20).

Given the suggestion in Fulton, it would have been obvious to one of ordinary skill in the art to make the carrier (Solaja; 14) of Solaja comprised of steel as taught in Fulton since steel is commonly known in the art to be an ideal material for ground-engaging elements because of its cost effectiveness, strength, and durability.

8. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solaja, US 4521980, in view of Hundebly, US 6293352.

Regarding claim 6, Solaja discloses an apparatus as described above regarding claim 1, but fails to disclose the drawbar arrangement (10) comprising hitch means located adjacent its forward end for pivotably connecting the drawbar arrangement to a connection on the prime mover, the hitch means being such that carrier can remain on the ground under its own weight while the forward end of the drawbar arrangement undergoes a predetermined degree of pivotal movement in a vertical direction about the connection.

Like Solaja, Hundebly discloses a ground-engaging apparatus arranged to be drawn behind a prime mover, including a drawbar arrangement (10), a carrier (21), and a ground-engaging implement (19a). Unlike Solaja, Hundebly further discloses the drawbar arrangement (10) comprising hitch means (11) located adjacent its forward end for pivotably connecting the drawbar arrangement (10) to a connection on the prime mover (column 6 lines 44-46), the hitch means being such that the carrier (21) can remain on the ground under its own weight while the forward end of the drawbar arrangement (10) undergoes a predetermined degree of pivotal movement in a vertical direction about the connection (column 6 lines 50-52).

Given the suggestion in Hundebly, it would have been obvious to one of ordinary skill in the art to substitute the drawbar arrangement (10) of Solaja with the drawbar

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arrangement comprising pivotable hitch means (11) as taught in Hundebly to allow for adjustment of the drawbar height without changing the arrangement of the carrier (Solaja; 14) and knife edge (Solaja; 24), thereby improving ease of use of the apparatus.

Regarding claim 7, Solaja discloses the distance between the knife edge and the connection on the prime mover as being significantly greater than the distance between the knife edge and the bottom portion of the carrier (14). Solaja fails to specifically disclose the distance between the knife edge and the connection on the prime mover as being at least 12 times as great as the distance between the knife edge and the bottom portion of the carrier.

However, it would have been obvious matter of design choice to modify Solaja by having the spacing between the connection on the prime mover, the knife edge (24), and the bottom portion of the carrier (14) be as given above since it appears that the apparatus would perform equally well being of any spacing between the prime mover connection, the knife edge (24) and the carrier (14), as long as the knife edge (24) is much closer to the carrier (14) than the prime mover connection as shown by Solaja.

Regarding claim 8, Solaja discloses the knife edge (24) as being located between the bottom portion of the carrier (14) and the connection on the prime mover.



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9. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solaja, US 4521980, in view of Patterson, US 3751071.

Regarding claim 9, Solaja discloses a ground leveling apparatus as described above, including a working position wherein the carrier (14) is disposed athwart the direction of motion of the drawbar arrangement (10). Solaja fails to disclose a second working position in which the carrier is disposed parallel to the direction of motion.

Like Solaja, Patterson discloses a ground-engaging apparatus arranged to be drawn behind a prime mover, including a drawbar arrangement (94), a carrier (12), and a ground-engaging implement (56). Unlike Solaja, Patterson further discloses the carrier (12) capable of being moved relative to the drawbar arrangement (94) between a first working position in which the carrier (12) is disposed athwart the direction of motion of the drawbar arrangement (94), and a second working position in which the carrier (12) is disposed substantially parallel to the direction of motion (abstract lines 1-4).

Given the suggestion in Patterson, it would have been obvious to one of ordinary skill in the art to make the carrier (Solaja; 14) of Solaja move with respect to the drawbar (Solaja; 10) between a first and second working position because the second working position can be used for transporting the apparatus, and its elongated shape allows for easier transport of the device through narrow obstacles while in the second working position.

Regarding claims 10-12, Solaja discloses a ground leveling apparatus as described above. Solaja fails to disclose elongate members spaced apart at their rear ends where they are each pivotably joined to the carrier (14) and pivotably joined together at their front ends, the elongate members projecting forwardly from the carrier (14) in the first working position and close together and close to the carrier (14) in the second working position, moved by means between the two positions.

Like Solaja, Patterson discloses a ground-engaging apparatus arranged to be drawn behind a prime mover, including a drawbar arrangement (94), a carrier (12), and a ground-engaging implement (56). Unlike Solaja, Patterson further discloses elongate members (66, 64) that project forwardly from the carrier in the first working position and that are close together and close to the carrier (12) in the second working position. Patterson further discloses means (claim 10) to pivot the elongate members (66, 64) between the first and second working positions, the means being telescopic length adjustment (abstract lines 10-11) of one of the elongate members (claims 11 and 12).

Given the suggestion in Patterson, it would have been obvious to one of ordinary skill in the art to substitute the drawbar arrangement (Solaja; 10) of Solaja with a drawbar arrangement (Patterson; 94) having elongate members (Patterson; 66, 64), one of which having adjustable length, as taught in Patterson, because the elongate members (Patterson; 66, 64) allow for increased mechanical support of the drawbar arrangement while providing a simple pivoting mechanism between first and second working positions.

**Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toni Newville whose telephone number is (571) 272 - 1548. The examiner can normally be reached on Monday - Friday 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Toni Newville  
November 3, 2005



THOMAS B. WILL  
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